

SECTION 331: PAYROLL OVERPAYMENT

1. General Comments

- (a) In general, employees of the State of Hawaii who are erroneously overpaid through the payroll system should voluntarily and immediately repay the full amount of the overpayment under regular procedures of the system.
- (b) Prescribed below are alternative procedures that must legally be allowed for recovering payroll overpayments, pursuant to Section 78-12 of the Hawaii Revised Statutes, from employees who do not voluntarily repay the overpayment. These procedures, which the affected employee's employing department or agency must follow, are designed to result in payroll deductions which are processed through the garnishment deduction sub-system.

2. Legal Authority. Section 78-12 of the Hawaii Revised Statutes provides the legal basis for the alternative procedures described in this section.

- (a) Under Section 78-12, employees have a right to a hearing to determine the amount of indebtedness to the State or to waive their right to such hearing.
- (b) Section 78-12 also provides that the amount of withholding is determined primarily by whether or not a hearing is conducted.
  - (1) If a hearing is conducted.

The amount of indebtedness will be recovered by withholding one quarter of the salary due the employee until the full amount of the indebtedness is recovered.

- (2) If the employee waives the hearing.

The amount of indebtedness will be recovered by withholding from the employee's salary an amount equal to the maximum legally permissible amount deductible under the State's garnishment law.

3. Procedures. The General Statutory Deduction Procedures as prescribed in Section 320: STATUTORY DEDUCTIONS are followed in processing the overpayment deduction. The exceptions to the General Statutory Procedures are as follows.

- (a) Initiating Deduction. The affected employee's employing department or agency initiates the deduction by transmitting to the Comptroller one of the following forms.

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- (1) If a hearing is conducted, a written request (see Exhibit A) is sent to the Comptroller to initiate the deduction.
  - (2) If the employee waives the hearing, a contract (see Exhibit B) is transmitted to the Comptroller under letter to initiate the deduction.
- (b) Clearing Account.
- (1) Pending receipt of the full amount of the indebtedness, the periodic payroll deductions are forwarded to the employing department or agency for depositing into a Trust and Agency Funds clearing account.
  - (2) Upon full recovery, the employing department or agency vouchers a payment to the Director of Finance, State of Hawaii.
  - (3) The warrant together with the TREASURY DEPOSIT RECEIPT, SAFORM B-13, and SAFORM D-70 (and the SAFORM D-71, where applicable) are forwarded to Central Payroll for processing.

EXHIBIT A: SAMPLE MEMORANDUM FOR SALARY OVERPAYMENT RECOVERY

MEMORANDUM

TO: Honorable Hideo Murakami  
Comptroller, State of Hawaii

FROM:

SUBJECT: Salary Overpayment Recovery

You are requested, in accordance with the provisions of Section 78-12, Hawaii Revised Statutes, to withhold one-quarter of any salary due the employee named below, until the total indebtedness to the State of Hawaii, \$ \_\_\_\_\_, has been withheld, and to forward such withholdings

to \_\_\_\_\_:  
(Specify name of agency or person & place)

Name of Employee:

Social Security No.:

The amount of the indebtedness indicated above was determined by hearing pursuant to Chapter 91, as provided under Section 78-12, Hawaii Revised Statutes.

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Title)

October 1, 1981

EXHIBIT B: SAMPLE CONTRACT FOR SALARY OVERPAYMENT RECOVERY

CONTRACT

I, \_\_\_\_\_, hereby waive my right to a  
(Print Name)  
hearing, as provided under Section 78-12, Hawaii Revised Statutes, to  
determine my indebtedness to the State of Hawaii, and instead, by virtue  
of this Contract, duly signed and accepted, assign to the

\_\_\_\_\_ (1) the priority  
(Name of Employing Department or Agency)  
right to payment of the total amount of the indebtedness, which is  
\$ \_\_\_\_\_, and (2) the right of such department or agency to deduct  
from each and every periodic payroll payment normally due me, an amount  
equal to the maximum legally permissible amount deductible under garnish-  
ment law until such time that the total amount owing is paid in full.

In the presence of:

ASSIGNOR:

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_  
19\_\_\_\_.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Social Security Number)

\_\_\_\_\_  
Notary Public, State of Hawaii  
My Commission expires: \_\_\_\_\_

In the presence of:

ACCEPTED BY:

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_  
19\_\_\_\_.

\_\_\_\_\_  
(Department/Agency  
Authorized Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
Notary Public, State of Hawaii  
My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
(Date)